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Attorneys for Defendants
Woodbine Alaska Fish Company,
and Guy Ferrari Inc.

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

CITICAPITAL COMMERCIAL CORP.,)

**Case No. A-04-0147 CI
IN ADMIRALTY**

Plaintiff,

V

EGEGIK SPIRIT, official number 2999957, her equipment, gear, furniture, apparel, fixtures, tackle, boats, machinery, anchors and all appurtenances, in rem;

**DECLARATION IN SUPPORT
OF APPLICATION FOR
CLERK'S ENTRY OF DEFAULT**

NAKNEK SPIRIT, official number 585824,
her equipment, gear, furniture, apparel,
fixtures, tackle, boats, machinery, anchors
and all appurtenances, in rem;
WOODBINE ALASKA FISH CO.,
in personam; and GUY FERRARI, INC,
in personam.

Defendants,

BIRNBERG &
ASSOCIATES

703 MARKET STREET
SUITE 600
SAN FRANCISCO
CA, 94103

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1 I, Cory Birnberg, declare as follows.

2 1. I am an attorney at law licensed to practice in the state of California, before
 3 all federal district courts in the State of California and have practiced pro hac vice in the
 4 State of Alaska and am admitted pro hac vice before this Court in this matter. I make this
 5 declaration upon my own personal knowledge as to those facts stated upon information and
 6 belief, I believe them to be true.

7 2. Counterclaimants WOODBINE ALASKA FISH COMPANY and GUY
 8 FERRARI INC. request that the Clerk of this Court enter the default of CITICAPITAL
 9 COMMERCIAL CORP. on the First Amended Counterclaim for failure to plead or
 10 otherwise defend in a timely manner, as provided by Rule 55 (a) of the Federal Rules of
 11 Civil Procedure.

12 3. Pursuant to this Court's order on March 28, 2006, Defendants herein filed
 13 their First Amended Counterclaim on April 18, 2006 through the Court's ECF/efiling
 14 system. Plaintiff was served through the court's electronic filing system and, pursuant to
 15 Local Rule 5.3(c)(2), has consented to electronic service.

16 4. Plaintiff's responsive pleading was due within 20 days of service of the first
 17 amended counter claim. Because service was completed on April 18, 2006, a responsive
 18 pleading was due on May 8, 2006.

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1 5. On May 11, 2006, this Court filed a notice that the time to answer the
2 counterclaims has expired, and that counterclaims may apply for default.
3

4 I declare under penalty of perjury the foregoing is true under the laws of
5 the Untied States and pursuant to 28 U.S.C. §1746. Executed this 11th day of May,
6 2006 at San Francisco, California.

7 By: s/Cory Birnberg
8 Cory A. Birnberg
9 CORY A. BIRNBERG
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11 San Francisco, California 94103
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15 California State Bar No. 105468
16 Attorneys for Defendants
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Certificate of service

The undersigned hereby certifies that on this 11th day of May 2006, a true and correct copy of Declaration in support of application for entry of clerks default was sent via FAXSIMILE and FIRST CLASS U.S. MAIL to:

Mark C. Manning
431 West 7th Avenue, Suite 204
Anchorage, AK 99501-3583
Facsimile: 907-278-1169

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By: s/Cory Birnberg
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